

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:11-cr-233

v.

HON. JANET T. NEFF

NICKEY JOSE RUIZ,

Defendant.

MEMORANDUM OPINION AND ORDER

Defendant moves for modification or reduction of sentence pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission (Dkt 154). The United States Probation Office filed a Sentence Modification Report (Dkt 167) recommending that a reduction not be applied. Defendant filed a Response (Dkt 168) indicating that the government previously released the mandatory minimum and requesting a reduction of his sentence. The Government filed a Response (Dkt 169) disagreeing with the determination of the Probation Office and requesting the Court to sentence Defendant to an appropriate sentence.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

Having fully considered the Sentencing Modification Report (Dkt 167) and the Responses (Dkts 168, 169), the Court has determined that Defendant is entitled to a reduction of sentence pursuant to the policy statements of the U.S. Sentencing Commission. Therefore,

IT IS HEREBY ORDERED that Defendant's motion for modification of sentence pursuant to 18 U.S.C. § 3582(c)(2) (Dkt 154) is GRANTED. Defendant's sentence is reduced to 192 months imprisonment, consisting of 120 months as to each of Counts One and Two, 192 months as to Count Three, and 12 months as to Count Four, with all counts to be served concurrently and with an effective date of November 1, 2015.

Dated: June 30, 2016

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge